

**From:** [Teague, Kenneth](#)  
**To:** [Tzhone, Stephen](#); [Turner, Philip](#); [Rauscher, Jon](#); [Sanchez, Carlos](#); [Miller, Garyg](#); [Foster, Anne](#)  
**Cc:** [Fontenot, Alison](#); [Smith, Donald-M](#); [Martinez, Maria](#); [Meyer, John](#)  
**Subject:** RE: U.S. Army Corps of Engineers Draft 2017 Nationwide Permit Regional Conditions- San Jacinto Waste Pits Area of Concern  
**Date:** Tuesday, June 07, 2016 1:43:16 PM  
**Attachments:** [image001.png](#)

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I just got off the phone with Jayson Hudson at the Corps (point of contact for the draft 2017 Nationwide Permit review), and he told me this condition has been part of their regional conditions for a while, so it is not new. He also told me that it is not intended to provide a way around the testing requirements of the Permit Evaluation Requirement Process for the San Jacinto Waste Pits Area of Concern- rather, just the opposite. He said by requiring applicants to notify the Corps of any proposed work, and requiring them to obtain a waiver from the Corps, this ensures the Corps is aware of the proposed project so they can make sure the requirements of the Permit Evaluation Requirement Process are met.

However, we did discuss that the language in this condition is not clear with respect to the Permit Evaluation Requirement Process. So, we should probably submit a comment including recommended language to clarify this condition, and its relationship to the Permit Evaluation Requirement Process. If you have any recommendations, please forward them. I will work on some suggested language and provide it to you for review prior to submitting our comments.

I also called and left a message for Steve Ellis at TCEQ, who is the point of contact for the Permit Evaluation Requirement Process at TCEQ.

Kenneth Teague, PWS, Certified Senior Ecologist  
Environmental Scientist  
Wetlands Section EPA Region 6  
1445 Ross Ave, Suite 1200 (6WQ-EM)  
Dallas, TX 75202  
phone: 214-665-6687  
FAX: 214-665-6689

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**From:** Tzhone, Stephen  
**Sent:** Tuesday, June 07, 2016 1:33 PM  
**To:** Teague, Kenneth <teague.kenneth@epa.gov>; Turner, Philip <Turner.Philip@epa.gov>; Rauscher, Jon <Rauscher.Jon@epa.gov>; Sanchez, Carlos <sanchez.carlos@epa.gov>; Miller, Garyg <Miller.Garyg@epa.gov>; Foster, Anne <Foster.Anne@epa.gov>  
**Cc:** Fontenot, Alison <Fontenot.Alison@epa.gov>; Smith, Donald-M <Smith.Donald-M@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>; Meyer, John <Meyer.John@epa.gov>  
**Subject:** RE: U.S. Army Corps of Engineers Draft 2017 Nationwide Permit Regional Conditions- San Jacinto Waste Pits Area of Concern

I just contacted Ken and he will contact TCEQ and USACE.

My understanding is that 6SF and 6WQ have not changed the permit evaluation requirement process developed from 2009 and 2011.

If the highlighted language below would entail a change in that process, I would recommend that the interagency workgroup (i.e. 6SF, 6WQ, TCEQ, and USACE) reconvene to ensure that the original intent would still be met (i.e. to minimize permittee exposure to CERCLA liability, while allowing for Houston Ship Channel/Galveston Bay watershed permitted activities under the Clean Water Act Section 404 and Rivers & Harbors Action Section 10).

Thanks,



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Stephen L. Tzhone  
Superfund Remedial Project Manager  
214.665.8409  
[tzhone.stephen@epa.gov](mailto:tzhone.stephen@epa.gov)

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**From:** Teague, Kenneth  
**Sent:** Tuesday, June 07, 2016 1:05 PM  
**To:** Turner, Philip <[Turner.Philip@epa.gov](mailto:Turner.Philip@epa.gov)>; Rauscher, Jon <[Rauscher.Jon@epa.gov](mailto:Rauscher.Jon@epa.gov)>; Tzhone, Stephen <[tzhone.stephen@epa.gov](mailto:tzhone.stephen@epa.gov)>; Sanchez, Carlos <[sanchez.carlos@epa.gov](mailto:sanchez.carlos@epa.gov)>; Miller, Gary <[Miller.Gary@epa.gov](mailto:Miller.Gary@epa.gov)>  
**Cc:** Fontenot, Alison <[Fontenot.Alison@epa.gov](mailto:Fontenot.Alison@epa.gov)>; Smith, Donald-M <[Smith.Donald-M@epa.gov](mailto:Smith.Donald-M@epa.gov)>; Martinez, Maria <[Martinez.Maria@epa.gov](mailto:Martinez.Maria@epa.gov)>  
**Subject:** U.S. Army Corps of Engineers Draft 2017 Nationwide Permit Regional Conditions- San Jacinto Waste Pits Area of Concern

The U.S. Army Corps of Engineers recently issued their INITIAL PUBLIC NOTICE for NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS. This includes their Draft 2017 Nationwide Permit Regional Conditions, which include a condition related to the San Jacinto Waste Pits Area of Concern.

11. For all work in the San Jacinto River Waste Pits (SJWP) Area of Concern (AOC), authorized under a NWP, requires a waiver from the Galveston District Engineer. The applicant shall notify the Galveston District Engineer (DE) in accordance with the NWP General Condition 32, Pre-Construction Notification (PCN). This PCN shall be used to review the project to determine if it will result in more than minimal effects to the region and does not lessen the restriction provided by any General Condition of the NWPs. The applicant must receive written approval, including a waiver from the Galveston DE prior to starting work in jurisdictional areas of waters of the United States.

I suppose the obvious question is whether or not this condition is consistent with the Permit Evaluation Requirement Process for the San Jacinto Waste Pits Area of Concern, as explained in our letters of October 13, 2009 and January 25, 2011.

Please provide any comments to me by July 7, 2016.

Kenneth Teague, PWS, Certified Senior Ecologist  
Environmental Scientist  
Wetlands Section EPA Region 6  
1445 Ross Ave, Suite 1200 (6WQ-EM)  
Dallas, TX 75202  
phone: 214-665-6687  
FAX: 214-665-6689